

### UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4 ATLANTA FEDERAL CENTER 61 FORSYTH STREET ATLANTA, GEORGIA 30303-8960

February 8, 2012

The Honorable Rand Paul, M.D. Member, United States Senate 1029 State Street Bowling Green, Kentucky 42101

Dear Senator Paul:

Thank you for your December 1, 2011, correspondence to the U. S. Environmental Protection Agency on behalf of concerning the operations at Porter Tire Center, Inc. (Porter Tire), in Globe, Kentucky. Your correspondence was forwarded to the EPA Region 4 office in Atlanta, Georgia, for response.

The EPA Region 4 office contacted the Kentucky Department for Environmental Protection (KDEP) and was informed that, in response to complaints received, they conducted a meeting with the state of the house on December 6, 2011. Participating in this meeting with the were the Director of the KDEP Division of Waste Management, Mr. Anthony Hatton, and members of his staff, as well as members of the organization, Kentuckians for the Commonwealth.

Following this meeting, KDEP conducted an investigation of Porter Tire. This facility has an approved registration for its waste tire processing operation. The findings of this investigation identified two conditions of the registration that were out of compliance. KDEP issued a Notice of Violation (NOV) to Porter Tire on January 5, 2012. The NOV addressed the management of the stockpile of shredded waste tires. We have enclosed a copy of the inspection report and the NOV.

If you wish to discuss the inspection report, the NOV, or the status of the remedial measures, you should contact:

Mr. Jon Maybriar, Environmental Control Manager Division of Waste Management Kentucky Department for Environmental Protection 200 Fair Oaks Lane Frankfort, Kentucky 40601 (502) 564-6716 If you have questions or need additional information from the EPA, please contact me or the Region 4 Office of Congressional and Intergovernmental Relations at (404) 562-8327.

Sincerely,

Swendolyn Keyes Fleming

Gwendolyn Keyes Fleming

Regional Administrator

### **Enclosures**

ce: Bruce Scott, Commissioner, KDEP Anthony Hatton, KDEP Jon Maybriar, KDEP

### **Energy and Environment Cabinet Kentucky Department for Environmental Protection Division of Waste Management**

Activity:

CIV20120001 Investigation

Lead Investigator:

Maze, Rodney

Agency Interest/Permit ID: 35690

**Agency Interest Name:** 

Porter Tire Center Inc.

**Agency Interest Address:** 

18361 W US 60

Program: Solid Waste

Olive Hill, KY 41164

Type of Agency Interest:

RETAIL-Other Retail Trade (44-45)

County: Carter

**Agency Interest Contact:** 

Title:

Phone:

Purpose: Investigation

Inspection Type: Incident Investigation

Inspection Date: 12/06/2011

Start Time: 12:32 PM

End Time: 05:47 PM

Latitude:

38.00000000

Longitude: -83.00000000

Coordinate Collection Method: Decimal Degrees

Incident ID(s):

#### **General Comments:**

An investigation of complaints received by the Division of Waste Management was conducted on this date and time at Porter Tire Center in Globe Kentucky. We met with members of the Kentuckians for the Commonwealth and residence to discuss her concerns with the waste tire processing facility. After completing the meeting with the waste tire processing facility. through of the facility was conducted by Mr.Jon Maybriar, Mr. Anthony Hatton, Mr. Scott Porter and Mr. Ed Porter. During the facility investigation, it was recommended that doors on all box trailers containing waste tires be closed, water used during the processing of waste tires be distributed more evenly at the rough shredding operation and any waste tires/ debris located along Tygarts Creek downstream of the facility to Smith Run Road should be removed and managed properly.

As the investigation continued, a stockpile of waste tires were observed east of the tire derived fuels processing building. The stockpile of waste tires was within 250 feet of a surface water of the Commonwealth. A notice of violation shall be issued for KRS

224.50-860(7)(c) and 224.50-860(1).

Person(s) Interviewed:

Name

Organization

### Status/Comments:

Requirement	Status	
Are waste tires managed in accordance with the registration approved by the cabinet? [KRS 224.50-860(1)]	V	The facility failed to comply with condition #5(c) listed on the approved registration.
Are windrows/outdoor piles no closer than 250 feet from a karst feature, surface water of the Commonwealth, or unplugged water well?. [KRS 224.50-860(7)(c)]		The facility has stockpiled shredded waste tires within 250 feet of a surface water of the Commonwealth, east of the tire derived fuel (TDF processing building.

Investigator: Title:	Date:
N - N-Not Applicable E - E-Not Evaluated	
X V - V-Out of Compliance-NOV	
C - C-No Violations observed I - I-No Violations obs-but impending viol trends obs	
D - D-Out of Compliance-Violations Documented O - O-Out of Comp-LOW non-recurrent Adm. or O&M	
Received By:	Date:

Page 2 of 2 Activity: CIV20120001 Al Name: Porter Tire Center Inc



STEVEN L. BESHEAR GOVERNOR

LEONARD K. PETERS SECRETARY

#### **ENERGY AND ENVIRONMENT CABINET**

DEPARTMENT FOR ENVIRONMENTAL PROTECTION

Division of Waste Management 200 Fair Oaks Lane Frankfort, Kentucky 40601 www.kentucky.gov

January 5, 2012

Certified No. 7009 0820 0001 1465 8520 Return Receipt Requested

Mr. Scott Porter Porter Tire Center Inc 18361 W US 60 Olive Hill, Kentucky 41164

Re:

Notice of Violation

AI ID: 35690

Al Name: Porter Tire Center Inc Activity ID: ENV20120001 Permit No. 022-00008 Carter County, KY

Dear Mr. Scott Porter:

The Kentucky Department for Environmental Protection (DEP) has issued the enclosed Notice of Violation for violations discovered at your facility. Please review this Notice of Violation carefully to ensure that all remedial measures are completed by the specified deadlines.

Your cooperation and attention to this matter is appreciated. If you have any questions, please contact me at 502-564-6716.

Sincerely,

Mr. Jon Maybriar,

Environmental Control Manager Division of Waste Management

may

Enclosure



### COMMONWEALTH OF KENTUCKY **ENERGY AND ENVIRONMENT CABINET** DEPARTMENT FOR ENVIRONMENTAL PROTECTION **Division of Waste Management**

### NOTICE OF VIOLATION

To: Mr. Scott Porter Porter Tire Center Inc 18361 W US 60 Olive Hill, Kentucky 41164

AI Name: Porter Tire Center Inc

AI ID: 35690 Activity ID: ENV20120001

Discovery ID: CIV20120001 County: Carter

**Enforcement Case ID:** 

Date(s) Violation(s) Observed: 12/06/2011

This is to advise that you are in violation of the provisions cited below:

1 Violation Description for Subject Item AIOO0000035690():

Operation: A person required to register as an accumulator, transporter, or processor of waste tires shall manage the waste tires in accordance with the registration approved by the cabinet. [KRS 224.50-860(1)]

Description of Non Compliance:

The facility failed to comply with condition #5(c) listed on the approved registration.

The remedial measure(s), and date(s) to be completed by are as follows:

The facility shall remove the stockpile of shredded waste tires within 250 feet of a surface water of the Commonwealth, east of the tire derived fuel processing building or store in buildings, in adjacent covered areas, or closed containers. To be completed by February 7, 2012. [KRS 224.50.50(860)(1)]

2 Violation Description for Subject Item AIOO0000035690():

Inspection: Unless the waste tires are stored in buildings, in adjacent covered areas, or closed containers, an accumulator, transporter, or processor of waste tires shall store them no closer than two hundred fifty (250) feet from a karst feature, surface water of the Commonwealth, or unplugged water well. [KRS 224.50-860(7)(c)]

Description of Non Compliance:

The facility has stockpiled shredded waste tires within 250 feet of a surface water of the Commonwealth, east of the tire derived fuel (TDF) processing building.

The remedial measure(s), and date(s) to be completed by are as follows:

The facility shall remove the stockpile of shredded waste tires within 250 feet of a surface water of the Commonwealth, east of the tire derived fuel processing building or store in buildings, in adjacent covered areas, or closed containers. To be completed by February 7, 2012. [KRS 224.50860(7)(c)]

Violations of the above cited statute(s) and/or regulation(s) are subject to a civil penalty per day per violation. Violations carry civil penalties of up to \$25,000 per day per violation depending on the statutes/regulations violated. In addition, violations may be concurrently enjoined. Compliance with remedial measures and their deadlines does not provide exemption from liability for violations during the period of remediation, nor prevent additional remedial measures from being required.

If you have questions or need further information, write or call the undersigned:

## (8:00 AM - 4:30 PM) Mr. Jon Maybriar, Environmental Control Manager

Issued By:

Mr. Jon Maybriar, Environmental Control Manager Date: January 5, 2012

How Delivered: Certified/Registered # 7009 0820 0001 1465 8520

### United States Senate

SYASHINGTON, DC 20510

December 1, 2011

Environmental Protection Agency Attn: Congressional Liaison 1200 Pennsylvania, NW, Room 3426 ARN Washington, D.C. 20460

Dear Congressional Liaison:

Exemption 6 Personal Privacy

RE:

I am contacting you on behalf of the above referenced individual, who has contacted my office requesting that her concerns be investigated. Please see the constituent's Privacy Release Form detailing her request.

Upon reviewing the Privacy Release, please send any information regarding the status or resolution of this matter to my State Office in Bowling Green, Kentucky at:

U.S. Senator Rand Paul

1029 State Street

Bowling Green, Kentucky 42101

If you have any questions or need additional information, please contact my Constituent Service Representative, Alexandra Baston, at 270-782-8303. Thank you for your assistance.

Sincerely,

Rand Paul, M.D. United States Senator



### RAND PAUL, M.D. United States Senator • Kentucky

### The Information and Privacy Act Form

Freedom of Information	n and Privacy Act of 197	4, access to information	on my behalf, pertinent to the on concerning me in the files of In addition, the office of e disclosed pertinent to that
request.		e de	Exemption 6 Personal Privacy
MAILING ADDRESS	3:		
HOME OF RECORD	(service members only		
V HOME PHONE #:		Exemption	on 6 Personal Privacy
WORK PHONE #:		oreonal f	blivsca
SOC SEC #:	A Company of the party	Exemption & Personal F	
VA CLAIM #:			
PASSPORT #:	CION #		
OTHER ID#:		(if applicable, pleas	se indicate tax year(s) and form #)
DATE OF BIRTH:		(mm/dd/yy) i 6 Personal Privacy	
	(Signature)		8-22-11 (Date)

INSTRUCTIONS:

Please write a brief letter outlining the nature of your problem and be as specific as possible. In particular, include the names of any public officials you have communicated with in the past and the dates those communications occurred. Also, please attach any relevant correspondence that you have initiated or received concerning your problem. You can either mail or FAX this completed form, your brief letter, and any other pertinent attachments to:

> Senator Rand Paul 1029 State Street

Bowling Green, KY 42101 770-787-8396 Fax: 202-228-6917 770-787-8315

# USE THIS PAGE TO EXPLAIN YOUR PROBLEM TO THE SENATOR

My, Bernie Kunkel field representative has been to my home, took pictures and saw the problem. Land, Water and air are being Polluted by a tire tant in our back yard It is located ight on the bank of Tygart creek. Mr. Edward Potter and his Son Scott wh the bruisness. Thirteen years weve lived here and reported this injusted DEPA. All citizens of our city and surrounding Commentes are affected by thus according to my kunker. and he stated something should be done. and he did not understand "why something had not been done.

Exemption 6 Personal Privacy

8/30/2011 Exemption 6 Personal Privacy

To Alex Bastom assigned worker in my case.

Telephone: 1-270-782-8396

Pages 1 of 3

a Copy resides at my home and Faxed to-202-228-6917

Alex, when I spoke with you on the phone this morning, even though Bernie Kunkel field representative has been to our home and was suppose to make a report from the pictures and viewing our problem and even though I fax you information about out problem you still seem to need the name of the business its address and owners with a more detailed exclamation of our problem. I was under the impression when Mr. Kunkel made his visit, he knew our address and the business address since it very well covers our back yard and of course he had done his work and listened to find the owners and seemed to comprehend the whole entire problem. He carried a folder seemly having our info and continuing to take info down and walked around and took pictures. As you stated this morning on the phone, you cannot vouch for what Mr. Kunkel did and didn't do, he was just a field representative. You needed me to get and give you the information all back over, the paper Mr. Kunkel gave me that I briefly filled out as he asked me to do and fax your office, but according to you it does not have enough info on it.

I can vouch for what Mr. Kunkel said and did when he was here at my home. Because, we (three people) besides Mr. Kunkel. Witnessing his presents here and his questioned us and takeing pictures from our resident and property, to which this tire crushing plant is taking over our property, pushing their debris over an outdated worn out broken down partly wooden what (Fence) suppose to be (a protective fence) between us. I was under the impression from him willing giving me the number 270-782-8396 and a fax 270-782-8315 to send The Information and Privacy Act Form with a page attached to give in brief detail explaining my problem to the Senator. Then, he said they would assign me a worker. They signed the first one on my case. She was, for what reason unknown to me, dismissed and then you were assigned.

To answer your question: Have I contacted state: Yes, I've contacted state and all their offices available for at least ten years, because for several years I depended upon our local offices EPA (Air and Water). Air says it is a water problem. Water says it is apair problem, and both will say Mr. Edward (Ed) Porter of Porter Fire & Auto Fire Center Inc. 18361 W US Highway 60 Globe Olive Hill, KY 41164 (606) 286-4484 has permits to shove his tire debris into our city water supply Tygart Creek. Permits to dig up the creek for at least one half a mile or more at night time after dark (Keeping the whole neighborhood awake with his dozers and their beeping) and on Sundays hiding his debris and tires underneath the creeks bed. He also has



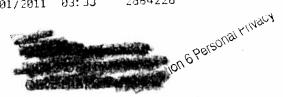
Pages 2 of 3

permits to keep open tires of every kind within 250 feet of ours and the neighbor's dwellings, open tires which hold water creating a mosquitoes breeding ground. I'm also told he has a permit to kill all the unfortunate animals, fish and whatever decides to drink water from the creek his business sits upon the bank of. You question: Have I contacted Mr. Porter and told him of my concerns? Answer: Mr. Porter is well aware of our concerns and we have been told by Mr. Porter, there is no use calling anyone on him and reporting him for he will just pay some small fines and do on with his business. We have been advised by Mr. Porter that we might as well give it up. And at this point and time, after years of reporting Mr. Porter to every agency in the state of Kentucky and going on to Washington to which brings us back to you and this letter I can clearly understand Mr. Porter making this remark.

Air, let us not forget air and land. My land, my whole property, my house and us as dwellers are breathing and experiencing a covering of crushed tire dust to which covers us and the whole neighborhood. Mr. Porter seems to have a permit to give him permission to mise as much of this crushed black tire dust as he possibly can, without taking any and all measures he can to prevent it. (We breath this, we clean this, we live in this soot.) I've come to this conclusion after contacting any and all agencies possible in regard in this matter for the time frame stated within this letter. Upon first explaining my problem, I'm told he is suppose to be wetting his crushed tire debris down and ask us if they came come and see our soot covered home, deck, lawn furniture and such. Yes, is always my reply. Upon seeing our problem, they promise to come back with their sample kits, but upon my long wait for their return I call to see if they are going to come. Then, I'm informed from air it is a water problem and from water it is an air problem. Upon my long investigation of Mr. Porter I find that he has had many fines to pay through the years for not running his plant up to specifications of the state laws for tire plants, but Mr. Porter hasn't been really thoroughly repeatedly investigated and watched after his fines to see if he is still in compliance to the states rules for his business.

I write you this letter knowing that you and your agency are not going to help, nor do you wish to help us in this matter. You get paid for your job and of course after talking with you this morning I knew you were as all the others have been in the last thirteen years. With a run around and turn around. You keep pounding me (the victim of broken state and federal laws) with an attitude and questions: Have you called state? Have you called federal, I can call federal, but you should have reported this to state, if you haven't reported to state, I can't contact federal. You need to do this, you have the wrong office? I hardly could get a word in and when you finally heard me, you had to get rid of me and call Mr. Kunkel, to which called me to give me an apology for doing his job and who is as confused as I am. I can come to any other conclusion in all this, but say I know what your job and its field is now. In my mind it called (victim denial and deterrence) but don't you worry you're not along nor the only deterrence worker I have came across in this matter, all these years dealing with them finally got me to your office after

Pages 3 of 3



contacting all of them. Did you really think I actually contacted you before all the rest (state and local)? I'm not about to quit reporting this injustice to our neighborhood, my home and family. In writing this I feel I'm giving you all the information you continually ask me for over and over stating quickly and repeatly: I had not giving all the info you needed on my form. I have put forth in this letter all you ask me for and I have also put forth in this letter all you helped me to do about my problem. Basically, it's not your problem, right, right!

I'll keep your information and your offices for future workers as yourself to answer their questions, if they will kindly give me a chance to speak and tell my story unlike yourself. Yes, Alex I do exist and so does our ENVIROMENTAL, land, water and air problem and there's bound to be some office, some person, somewhere who can help us. I still believe this after thirteen years of reporting to every agency state, local, and youl

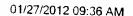
Good Day;

o rersonal Privacy



### Fw: Follow-up Congressional Inquiry - I

Bryan Myers (b): Julia Mooney



STATE

Bryan Myers/R4/USEPA/US

Julia Mooney/R4/USEPA/US@EPA

Please put in system and assign to RCRA - please tell them we need to quickly identify who shold be responding.

Bryan M. Myers Associate Regional Counsel & Congressional Liaison U.S. Environmental Protection Agency Region 4 61 Forsyth Street, S.W. Atlanta, GA 30303

Phone: 404/562-9603 Fax: 404/562-8335

CONFIDENTIALITY NOTICE: This message is being sent by or on behalf of an attorney. It is intended exclusively for the individual(s) or entity(s) to whom or to which it is addressed. This communication may contain information that is proprietary, privileged, or confidential or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy, or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately by email and delete all copies of the message.

---- Forwarded by Bryan Myers/R4/USEPA/US on 01/27/2012 09:33 AM ----

ਜਾom:

Andrea Baker/DC/USEPA/US

Fo:

Bryan Myers/R4/USEPA/US@EPA

Date: 01/27/2012 09:23 AM

Subject:

Fw: Follow-up Congressional Inquiry

Exemption 6 Personal Privacy

Hi Brian.

It was originally sent to Laura Vaught in HQ who said that it might have been sent to R4 for a response. Please see the correspondence below. Thanksl

Respectfully, Andrea N. Baker Special Assistant Congressional and Intergovernmental Relations US EPA, ARN 3426 Phone(202) 566-1809

---- Forwarded by Andrea Baker/DC/USEPA/US on 01/27/2012 09:19 AM -----

alom: Fo:

Laura Vaught/DC/USEPA/US Andrea Baker/DC/USEPA/US

Oate: 3 abject: 01/26/2012 04:54 PM

Fw: Follow-up Congressional Inquiry -

Exemption 6 Personal Privacy

ah - ha! Here's the original letter for checking with Region 4 - thanks!! ---- Forwarded by Laura Vaught/DC/USEPA/US on 01/26/2012 04:54 PM ----

From:

"Baston, Alexandra (Paul)" <Alexandra\_Baston@paul.senate.gov>

Fr.

Laura Vaught/DC/USEPA/US@EPA

Cate:

01/09/2012 02:33 PM

Good Afternoon Ms. Vaught,

Exempation of occupied rrivacy

I just wanted to follow-up with you regarding the status of case. If you have any Exemption 6 Personal Privaquestions, please let me know.

Thanks,

### Alexandra Baston

Constituent Service Representative U.S. Senator Rand Paul - KY Phone: 270-782-8303

Fax: 270-782-8315

From: Baston, Alexandra (Paul)

Sent: Thursday, December 01, 2011 4:07 PM

To: vaught.laura@epa.gov

Exemption 6 Personal Privacy Subject: Congressional Inquiry -

Attached congressional inquiry on behalf of the little of attached, please contact me at 270-782-8303.

Thanks and have a great day.

### Alexandra Baston

Constituent Service Representative U.S. Senator Rand Paul - KY Phone: 270-782-8303

Fax: 270-782-8315

- PRF.pdf

Exemption 6 Personal Privacy